

## HOUSE BILL NO. 33

INTRODUCED BY F. WILMER

BY REQUEST OF THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION OF "COMPENSATION" USED IN THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM TO INCLUDE OVERTIME PAY WITHIN THAT DEFINITION AND THE CALCULATION OF RETIREMENT BENEFITS; AMENDING SECTIONS 19-13-104 AND 19-13-604, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 19-13-104, MCA, is amended to read:

**"19-13-104. Definitions.** Unless the context requires otherwise, the following definitions apply in this chapter:

(1) Any reference to "city" or "town" includes those jurisdictions that, before the effective date of a county-municipal consolidation, were incorporated municipalities, subsequent districts created for urban firefighting services, or the entire county included in the county-municipal consolidation.

(2) "Compensation" means:

(a) for a full-paid firefighter, the remuneration paid from funds controlled by an employer in payment for the member's services, including payments for overtime, before any pretax deductions allowed by state and federal law are made;

(b) for a part-paid firefighter employed by a city of the second class:

(i) 15% of the regular remuneration, ~~excluding~~ including overtime, but excluding holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year to a newly confirmed, full-paid firefighter of the city that employs the part-paid firefighter; or

(ii) if that city does not employ a full-paid firefighter, 15% of the average regular remuneration, ~~excluding~~ including overtime, but excluding holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year to all newly confirmed, full-paid firefighters employed by cities of the second class.

(c) Compensation for full-paid and part-paid firefighters does not include:

1 (i) ~~overtime~~, holiday payments, shift differential payments, compensatory time payments, and payments  
2 in lieu of sick leave; and

3 (ii) maintenance, allowances, and expenses.

4 (3) "Dependent child" means a child of a deceased member who is:

5 (a) unmarried and under 18 years of age; or

6 (b) unmarried, under 24 years of age, and attending an accredited postsecondary educational institution  
7 as a full-time student in anticipation of receiving a certificate or degree.

8 (4) "Employer" means any city that is of the first or second class or that elects to join this retirement  
9 system under 19-13-211 or, with respect to firefighters covered in the retirement system pursuant to 19-13-210(2),  
10 the department of military affairs established in 2-15-1201.

11 (5) "Firefighter" means a person employed as a full-paid or part-paid firefighter by an employer.

12 (6) "Full-paid firefighter" means a person appointed by an employer as a firefighter under the standards  
13 provided in 7-33-4106.

14 (7) "Highest average compensation" means the monthly compensation of a member averaged over the  
15 highest consecutive 36 months of the member's active service or, in the event a member has not served at least  
16 36 consecutive months, the total compensation earned divided by the number of months of service. Lump-sum  
17 payments for annual leave paid to the member upon termination of employment may be used to replace, on a  
18 month-for-month basis, the regular compensation for a month or months included in the calculation of highest  
19 average compensation.

20 (8) "Minimum retirement date" means the first day of the month coinciding with or immediately following,  
21 if none coincides, the date on which a member reaches both 50 years of age or older and completes 5 or more  
22 years of membership service.

23 (9) "Part-paid firefighter" means a person employed under 7-33-4109 who receives compensation in  
24 excess of \$300 a year for service as a firefighter.

25 (10) "Prior plan" means the fire department relief association plan of a city that elects to join the  
26 retirement system under 19-13-211 or the fire department relief association plan of a city of the first or second  
27 class.

28 (11) "Retirement date" means the date on which the first payment of benefits is payable.

29 (12) "Retirement system" means the firefighters' unified retirement system provided for in this chapter.

30 (13) "Surviving spouse" means the spouse married to a member at the time of the member's death."

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2           **Section 2.** Section 19-13-604, MCA, is amended to read:

3           **"19-13-604. State contribution.** The state shall make its contributions from the general fund. The  
4 general fund contributions must be made annually after the end of each fiscal year but no later than November  
5 1. The board shall notify the state auditor by September 1 of each fiscal year of the annual compensation,  
6 including overtime but ~~excluding overtime~~, holiday payments, shift differential payments, compensatory time  
7 payments, and payments in lieu of sick leave, paid to all active members during the preceding fiscal year. The  
8 state's contribution is 32.61% of this total compensation. The contributions are statutorily appropriated, as  
9 provided in 17-7-502."

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11           NEW SECTION. **Section 3. Effective date.** [This act] is effective July 1, 2009.

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13           NEW SECTION. **Section 4. Applicability.** [This act] applies to benefits calculated on or after July 1,  
14 2009.

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